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APPENDIX #1

Congressman Pete Hoekstra's Speech to the Economic Club of
Detroit:

"The American Workplace – A Strategy for Excellence

APPENDIX #1

Congressman Pete Hoekstra Speech to the Economic Club of Detroit “The American Workplace – A Strategy for Excellence”

Ladies and gentlemen, thank you for granting me the opportunity to speak with you today. Some of you might be expecting me to talk about the Northwest Airlines strike, but I’m not going to address that today. And I definitely have no interest in talking about President Clinton and Monica and the rest of that little soap opera. We’ll have plenty of that in the coming weeks, I’m sure.

No, today I want to talk with you about a vision that I have a passion for: a working environment where the American worker can be the most productive and highest-paid worker in the world. An environment where the American economic system ensures that the American worker adds more value than his counterparts around the globe. An environment where businesspeople from all around the world want to do business.

For the last 18 months, my oversight subcommittee has been developing a strategy to meet this vision.

Here’s what we know so far:

- Change is needed. The legal framework for the American workplace needs dramatic change. Public policy has not kept pace with the changes in the private sector.
- However, despite overwhelming evidence that we need major restructuring of many workplace laws, we are mired in the status quo and many are afraid of change.
- We need a Strategy for Excellence which can build momentum for change by focusing on four key values all built on the concepts of freedom and choice:

new workplace law must be effective and efficient;

new workplace law must be dynamic and flexible;

new workplace law must be worker-centered;

new workplace law must foster a high value-added worker economy.

The model of tomorrow's legal framework has to recognize the emergence of a large group of workers who want to be - and have the capability to be - empowered. That is, they would have the capability to have control of much more of their work lives than what current labor law allows. They would no longer see government as the needed protector in their lives.

We've met with workers, employers, and academics, asking them questions and listening to their advice on the future of the workplace. It has been a fascinating experience.

The case for change is overwhelming: Just imagine if your corporation was managing its business with 1930s procedures, practices, and technology. It wouldn't work. But that's what the federal government asks you to do when you work under today's American labor laws.

Much of this labor law was developed during the Depression and World War II. The defining labor law – Fair Labor Standards Act – was created in 1938, while the National Labor Relations Act was enacted in 1935.

Consider the period when these laws were developed versus today's conditions:

- In 1938, 1 in 5 of all American workers were unemployed, but today only 1 in 25 American workers face unemployment in a vastly expanded workforce;
- In 1938, more than 1 out of 5 worked in agriculture, but today just 1 in 40 hold agriculture-related jobs;
- In 1938, 1 out of 3 workers labored in manufacturing jobs, but less than half of that now hold those jobs;
- Finally, in 1938, just over 1 in 10 workers worked in the service sector, but today, that number has nearly doubled.

So much has changed since 1938. There was no cell phone, no computer chip, no e-mail, no laptop, no Intel, no Microsoft.

This technological revolution has created the fastest and largest growing sector of our economy. High-tech businesses have twice the sales of automotive manufacturing and food production.

Products such as software can move instantly around the globe, meaning they can be produced as easily in Malaysia as in Michigan. The high-tech industry operates under time constraints that weren't even considered feasible just a few years ago. These businesses operate on what they call a "web year" which means they need to get it right in 90 days, and they have to do it over and over and over again. Tasks used to be

measured in seconds, minutes and hours but now are measured in milliseconds, microseconds and nanoseconds. Technology has now redefined time in many industries.

Then there's the government.

Most of you are familiar with the Davis-Bacon Act, a law that typically increases the labor cost of a construction project by more than 25 percent. A recent General Accounting Office study found that the average wage survey collected by the Labor Department is 7 years old. Think about it. That's 28 web years.

Then there's the EPA. It is blocking a steel mill (which would create 200 jobs) from locating near Flint because someone thought it might hurt minorities. Of course, nobody at the EPA bothered to do a simple survey of the area. It turns out that 84 percent of that area's residents are white.

I could go on and on, and so could you, I'm sure. There is a compelling need for change in federal law, particularly labor law. Yet after attempts by Ronald Reagan and the Dunlop Commission, there is still no progress or even a real debate about labor policy reform.

Why is this? I offer three reasons:

- **Number 1:** The prevailing wisdom is, "If things are good, why change?" That is a dangerous attitude to take. I believe the economic turmoil in the Far East, and other parts of the world will create change in those economies that will threaten the success we are currently enjoying. America can't sit still. I strongly believe the saying made famous in Detroit, 'If you're not making dust, you're eating it.'
- **Number 2:** Another prevailing notion is, "Why bother?" Why isn't corporate America fully engaged? Too often it is easier to build a plant in Mexico than to deal with all the hassles of U.S. regulations. Too often it is easier to hire lawyers and accountants to help you comply with the law than to fight an entrenched liberal political establishment to change the law. And too often it is easier to avoid risk altogether than to fight the government in the courts. Too often, it's just not worth it to fight for labor law reform.
- **Number 3:** Businesses, government and organized labor continue to face challenges in working together to achieve reform in everyone's best interest. I want to be very careful in how I say this. In my congressional district I have seen very successful cooperation between union workers and management at a local level. They have successfully restructured their procedures and costs to be competitive in the automotive, foundry and other manufacturing industries. Yet too often there is a disconnect between union locals and the policies and actions of the national union leadership. In my subcommittee's investigation of the Teamsters, we are in a situation where the leadership of the largest private-sector union has stolen money from its rank-and-file members, is misappropriating rank-

and-file members' money, and has prevented the rank and file and my subcommittee from reviewing key internal financial documents. The leadership has been thrown out of the union, individuals pleaded guilty to money laundering, and corruption may extend to the number two official at the AFL-CIO, Richard Trumka, the Democratic National Committee and former White House deputy chief of staff Harold Ickes. In short, the labor union movement is in trouble. Organized labor has an important role to play in these reform efforts, but not when it loses touch and accountability with the rank and file.

So what does a Strategy for Excellence look like? Where do we find common ground?

First, it will allow for choices.

Second, it will embrace global markets and global opportunities.

Finally, it will update and simplify American labor law to reflect the new realities which I have outlined. It will make the American work environment one which is:

- Effective and efficient;
- Dynamic and flexible;
- Worker-centered;
- High value-added, by having the best trained and capable workforce in the world.

[POINT 1 - efficient and effective] What is not efficient is when a new business in the state of California is forced to contend with 38 different federal and 35 state laws. These are the number of labor laws facing a start-up company in California (covering laws only in the areas of wages, environment, safety, health, civil rights and discrimination, and pension benefits.)

These laws vary in their application, depending on the size of the company. They are complicated. In some cases, state law takes precedent, in others, federal law takes precedent. Sometimes these laws are duplicative. California's definition of an employee is broader than federal law and therefore includes more workers under provisions of employment insurance and state income tax.

Even when you're dealing with just federal law, you not only find that the laws are duplicative, but they are sometimes contradictory. Three major pieces of legislation that are often contradictory are the Americans with Disabilities Act, the Family Medical Leave Act and Worker's Compensation. For example, under the ADA, you may not ask about the health condition of an employee while the Family Medical Leave Act requires it. If you meet the requirements of one, there is a good chance you will violate the requirements of the other. Violation of either act could result in a lawsuit. That's not effective or efficient.

Is there any confusion as to what is a part-time worker versus a leased employee versus an hourly employee versus a salaried employee, and the difference between an exempt and non-exempt employee? What is the multi-point test to qualify as an independent contractor?

Here is a story that might sound familiar. A small-business employer in my district is growing rapidly in the educational field employing high-tech workers. This employer reached the magic number of 50 employees and called in their labor attorney. They spent weeks and thousands of dollars classifying their employees even though they never knew they had a problem. The result: lost productivity trying to fit 1998 pegs into 1938 holes. When their labor lawyer left, he said: "There's a 50-50 probability we got it right!" That's not efficient or effective.

Remember, each dollar we save can either be used to lower costs, increase wages or new investment.

[POINT 2 - Dynamic and flexible] Our labor laws need to be dynamic and flexible. Policy makers need to recognize the opportunities of the high-tech market and the challenge of the New York sweatshops. I know that not every company needs to work with its employees the way high-tech companies do. I also know that there are employers where government is and needs to be the first line of protection. We need to recognize that the economy continues to change and we must be ready to respond more quickly to new opportunities. Successful businesses embrace the future. Government needs to get with the program or risk seeing more jobs and opportunities going to other countries, or simply falling by the wayside. We need more flexibility. We can't afford to keep locking everyone into 1938.

[POINT 3 - Worker-centered] Next, we need labor laws which recognize the value of the individual worker. America is a nation of personal freedom and individual achievement.

In a world of knowledge workers, we need to be prepared to empower each person and enable them to take control of their futures. Imagine the opportunity cost if this group of workers isn't challenged or if artificial barriers prevent these workers opportunities to move more freely through the marketplace.

With the development of many different types of work arrangements, many at the employees' discretion, part-time, leased, temporary, full-time, independent contractors and freelance, and others we can deal with their frustrations and insecurities by enabling them to take ownership of their own benefits, health care, 401 (k) plans, and retirement. Many benefits should be tied to the employee, rather than to the workplace. In today's mobile economy, why do employees need to worry about health care or retirement when they change jobs? Why should one type of work arrangement be treated differently by our tax laws than others? Why would we reward full-time arrangements when many workers choose other arrangements, even though they will be penalized by our labor or tax laws?

We need to open up and expand work arrangements, not limit them. By significantly changing our tax law, and moving the benefits to the worker rather than to the employer, we will significantly reduce the stress and insecurity in our new, more mobile workforce. Let's facilitate an efficient movement of resources, not impede it. Let's allow for both employer- and employee-based benefit plans.

It's a fundamental shift, recognizing the importance of employees in making decisions for themselves.

While this change will take time, and a process for implementing these types of reforms need to be developed, those seeking to do so should recognize that models already exist for these types of arrangements that are focused on the worker, not the employer.

MIT's Thomas Malone believes that common interest groups like trade associations and unions, can begin to play a much bigger role in peoples' lives to help compensate for the lack of financial security and sense of community once provided by employers. He envisions the development of "professional guilds" that offer everything from volleyball teams to health and unemployment insurance and retirement plans.

Trade associations and chambers of commerce are already providing reduced-rate health plans to their members. The Michigan Chamber of Commerce has created a Volunteer Benefit Plan, which gives employers the opportunity to make health insurance available to their employees at no cost to the employer. The Screen Actors Guild contracts with producers to pay up to 30 percent of members' wages into the Guild's benefit fund. At a time when unions are shrinking and under fire for providing little to their members, such a concept may provide them with new growth opportunities. They could develop a whole new service function to a much broader range of workers.

An empowerment strategy also would open up the workplace for gain sharing between employees and employers.

It would open up the workplace for truly innovative and effective worker involvement efforts.

I'm firmly convinced that in many segments of our economy we could make significant increases in productivity by unleashing the full potential of the individual American worker, by recognizing the new power and leverage that they have in today's work environment.

[POINT 4 - High value added] We must also create an environment that affords workers the ability to upgrade their skills and education. One of the constant goals of workers and employers is the desire to have in place a system that allows and encourages ongoing skill enhancement. Corporations, unions, government, and individuals have

dedicated large amounts of resources and time to this effort. We must improve and expand this commitment to learning and skill enhancement.

Why is it that in America today, many businesses are encouraging Congress to increase H-1B visas from 65,000 to 115,000? What are we not doing that would allow these jobs to be filled by Americans? Why can't employers find workers with the skills that they need? Why did I hear at one community college I visited that only 40 percent of all students had the basic skills to do college work? How many high-skilled jobs could be filled by American young people if we improved this number to 60 or 75 percent, or higher?

Since 1995, I have visited 16 states and held 22 hearings as part of the my subcommittee's Education at a Crossroads Project. This project was an attempt to understand where America's schools are today and what impact, positive or negative, the federal government has had in improving education.

I have found - and I'm sure you also know this to be true - that we are failing too many of our kids in the K-12 system, and we are not developing a model for life-long learning. It is the Achilles' heel of our future as a world power. We can't accept being in the middle or at the back of the pack when it comes to learning.

We must work at creating a society focused on and rewarded for learning.

If our children don't get a proper education, they will never have the opportunity to pursue or live the American dream. If our workers are not provided with the means to continue their learning, then the American dream will be diminished. This is a difficult problem, but one which all Americans must face, including and especially the business community.

I am impressed by the efforts being made by many Michigan businesses to improve education. The Michigan Business Leaders for Education Excellence is implementing strategies to improve education in Michigan. They have published the Michigan School Report to establish greater accountability for schools to teach basic skills. They have produced an advertising campaign to raise public awareness of the importance of improving education. And they have created a "How To" guide for businesses to become more involved in education reform in their communities.

These efforts, which are entrepreneurial and creative and which demonstrate a long-term commitment on the part of the business community to improve education in Michigan, are not just acts of public service and good stewardship - they are the right thing to do. It is in all our best interests to work together for dramatic improvements in education in Michigan. Over the next two years, there may be an opportunity in Michigan to greatly expand educational opportunities for our children through greater parental choice in directing educational dollars. I hope you will all give strong consideration to joining that effort.

The state of the American workplace and American labor law is complicated but promising. We must embrace change. We must find common ground.

Here are a few things which Congress should pursue early in the 106th Congress which would chart a very different course for the future of American labor law:

- First, we should pass legislation that would harmonize all federal laws so employers who act in good faith to comply with one law, but by doing so violate another federal law, will not be held liable. American labor law should be a concise and consistent set of rules and regulations that match today's working conditions. Laws should protect people, not trap them.
- Second, in the next tax reform legislation, we should pass 100 percent deductibility for individual health care plans and develop a strategy to pass 100 percent deductibility for other benefits as well.
- Third, we need to encourage more accountability by corporations and organized labor to work for the common interests of shareholders, employees and rank-and-file members alike.
- Fourth, Michigan's business community, parents and other concerned citizens can set an example for the nation by working together to provide greater educational choice and opportunities for our children. Our future is being developed today in classrooms. Will children get the best education possible? Will education dollars be put to the best possible use? These are critical issues, not just for our children, but also for the tomorrow's workplaces.
- Finally, we need to challenge the business community, organized labor, entrepreneurs and workers alike to get involved in the fight for labor law reform. Today, the political critical mass is lined up squarely behind the status quo. Our goal must be to shift the political critical mass in the direction of change and reform.

We must move from a perspective that views most workers as potential victims to workers who are empowered and want to take greater control of their future. We must work together to improve today's educational environment and foster an attitude of life-long learning when a person enters the workforce.

We need to reinvigorate the American dream and not encumber it with complicated laws that impede the effectiveness of the workplace and consequently the future of workers. We need to open up the process to alternative work and benefit arrangements. One size does not fit all.

We can get there if we open a real dialogue and embrace change. We all share similar values and hopes for the next generation.

There is a need for a deeper dialogue between workers, both organized and unorganized, business leaders, academics, and policy leaders to take advantage of the opportunities that face us. If we fail to act, we are missing an opportunity to improve the wages, skills, and productivity for all Americans. If we fail, we are jeopardizing the American dream.

I challenge and invite you to join me in defining a new course and a new direction in American labor law. We must forge a new working relationship by finding common ground for employers and employees. I have enjoyed working with the Mackinac Center for Public Policy and others who have a passion for long-term strategic planning and analysis. If we all work together, we will make America a more productive and prosperous nation for our children and grandchildren.

Thank you for allowing me to share with you what I believe are some of the elements for an emerging Strategy for Excellence for the American workplace.

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September 9, 1998
Cobol Hall, Detroit, Michigan
12:00 Noon

APPENDIX #2

Staff Members of the American Worker at a Crossroads Project

APPENDIX #2

STAFF MEMBERS OF THE AMERICAN WORKER AT A CROSSROADS PROJECT

Jan O. Faiks – Project Director
Paul L. Boertlein – Communications Director
Arturo R. Silva – Media Assistant
Stevan W. Johnson – Office Manager
Beth E. Wallinga – Staff Assistant/Receptionist (Intern Spring 1998)
William W. Matchneer, III – Chief Counsel
Stephen Settle – Professional Staff Member/Investigator
Kimberly A. Reed – Professional Staff Member/Counsel
Patrick J. Lyden – Staff Assistant, Fall 1997
August Stofferahn – Professional Staff Member, Fall 1997
Allison Hogg – Intern, Summer 1998
Peter L. Wucetich – Intern, Fall 1998

APPENDIX #3

Roundtable Discussions and Site Visits

APPENDIX #3

ROUNDTABLE DISCUSSIONS AND SITE VISITS

A thorough evaluation of the current status of labor law requires feedback from the people affected by those laws on a regular basis. Noting the importance of hearing from American workers, the Subcommittee visited workplaces in cities including Atlanta, GA; Seattle, WA; Santa Clara, CA; Dallas, TX; Boston, MA; Greenville, SC; and Troy, MI.

While in these cities, Chairman Hoekstra chose to use the forums of roundtable discussions and site visits to gather information for the following reasons:

1. To meet as many workers as possible and hear innovative practices and suggestions as well as what is not working in the workplace.
2. To make the American Worker Project a worker-centered, not Washington-centered, investigation of the American workplace.
3. To determine who would make the best witnesses for Congressional hearings.

The Subcommittee met with a vast spectrum of individuals, including front-line workers, management, academics, union members, persons with disabilities and others to discuss issues of importance to the workplace. These discussions were with people from many different industries, including textile, telecommunications, small business, maritime, energy, waste treatment, automobile, high tech and construction.

Below is a brief analysis of the roundtables and related activities, along with summarized findings where appropriate.

Seattle, Washington and Silicon Valley, California Roundtable Discussions

On December 10-12, 1997, the Committee on Education and the Workforce's American Worker at a Crossroads Project (AWP) held roundtable discussions and site visits in Seattle, WA and Silicon Valley, CA. These events initiated the AWP's outreach across the nation, soliciting input from individual Americans on how they view their jobs, their companies, and the workplace in general.

The AWP participants included Chairman Pete Hoekstra, majority and minority committee staff members, and a representative from the U.S. Secretary of Labor.

Sectors of the Maritime Industry, Seattle, WA

On December 10, 1997, eleven representatives of the various sectors of the maritime industry met with Chairman Hoekstra, AWP staff, and a representative from the U.S. Secretary of Labor's office. The focus of the discussion was twofold: to learn about the current status of this industry and to hear first-hand suggestions from the various sectors on how to improve the workplace in this industry. Views heard at the meeting include:

1. A perceived decline in the Seattle area's maritime industry;
2. How the Jones Act (46 U.S.C.A. § 688 *et. seq.*) and foreign competition may be contributing to a reduction in the industry's size;
3. A perceived negative effect that the Walsh-Healy Public Contracts Act (41 U.S.C. § 35) has had on the industry's competitiveness;
4. The concern over foreign competition for low-paying, low skilled jobs; and,
5. The Maritime Alliance, an example of union and business working together towards a common goal for the industry.

Fraser Boiler Company, Seattle, WA

On December 10, 1997, Congressman Hoekstra, AWP staff, and a representative from the U.S. Secretary of Labor's office participated in a site visit to the Fraser Boiler Company. The group toured the facility and talked with workers about issues of concern to the maritime industry, competition, and business operations.

Construction Industry Training Council (CITC), Bellevue, WA

On December 10, 1997, eleven representatives of the Construction Industry Training Council and its affiliated sponsors and support staff met with Chairman Hoekstra, AWP staff, and a representative from the U.S. Secretary of Labor's office. The focus of the discussion was to learn about CITC's innovative, open-shop construction apprenticeship program and the problems associated with maintaining such a program in the state of Washington. Issues discussed included the following:

1. The success that students have had with CITC after having been unable to succeed in other programs;
2. The difficulties CITC has had in surviving legal battles to remain one of the few open shop apprentice programs in the state; and

3. The concern over the discriminatory system in place for approving the apprenticeship programs.

Microsoft Corporation, Redmond, WA

On December 11, 1997, fourteen representatives of various high-technology industries met with Chairman Hoekstra and staff at the Microsoft Corporation campus. The focus of the discussion was what education is needed to prepare workers, what federal laws are hindering the workplace, and what needs to be done to create high paying, high quality jobs. Issues discussed included the following:

1. The increased demand for high-technology employees;
2. The necessity of high-technology education; and
3. The effect of temporary employees on the workplace.

Chairman Hoekstra and the AWP staff also heard from five Microsoft Corporation representatives on various recruiting and educational programs. Issues discussed included the following:

1. Microsoft's innovative recruiting services for high-tech workers;
2. The Skills 2000 program, the company's career track program for college students;
3. The mid-career training which Microsoft offers to prepare new workers;
4. The company's involvement with community colleges; and
5. Microsoft's philanthropic interests and involvement.

King County Waste Water Management Plant, Seattle, WA

On December 11, 1997, six union employees and managers of the King County Waste Water Management Plant met with Chairman Hoekstra and staff. The focus of the discussion was the innovative labor/management working environment in this union plant. Issues discussed included the following:

1. Employee involvement in all phases of improving the company's business;
2. The inclusion of a peer review system; and
3. The company's gainsharing plan for employees.

American Electronics Association, Santa Clara, CA

On December 12, 1997, twenty-five representatives from various high-technology industries met with Chairman Hoekstra, AWP staff and a representative from the U.S. Secretary of Labor's office at a roundtable hosted by the American Electronics Association. The focus of the discussion was the changing American workplace and its requirements for remaining competitive, as well as the effect of various federal laws on the high-tech industry. Issues discussed included the following:

1. The transfer from manufacturing to service industry jobs in the American workplace;
2. The effect of telecommuting on the workforce;
3. The increased interest in a flexible workplace, including temporary and contract work;
4. The need for an increase in the cap for H1-B visas (subsequently enacted as P.L. 105-277, which establishes an increased cap on the entrance of visitation workers who enter the country to cover the high-tech industry); and
5. The need for flexibility in the workplace to ensure high paying, high quality American jobs.

Additionally, Michaela Platzer, senior writer and researcher for Cybernation, presented a lecture on important statistics in the high-technology industry via video conferencing from Washington, DC.

Mission College, Santa Clara, CA

On December 12, 1997, the administration and faculty of Mission College met with Chairman Hoekstra and staff. The focus of the discussion was the successful development of education programs between the community college in Silicon Valley and the area's high-technology companies. Issues discussed included the following:

1. The partnership between the business community and the school, which has resulted in meaningful, hands-on education and transition to high-tech jobs; and
2. The college's ongoing effort to educate the public about the up-to-date high-tech training Mission College provides and the demand for workers in this field.

3Com Corporation, Santa Clara, CA

On December 12, 1997, six executives and workers of the 3Com Corporation met with Congressman Hoekstra, AWP staff and a representative from the U.S. Department of Labor. The focus of the discussion was on the difficulties this innovative, high technology company has experienced with labor laws. Issues discussed included the following:

1. The difficulty in classifying and defining exempt versus non-exempt employees and the need for revision of the Fair Labor Standards Act (29 U.S.C. § 201);
2. The rapid pace of the high-tech industries and the emergence of the concept of a “web year”, notions which are not accommodated by pre-W.W.II labor laws; and
3. How local and global competition creates an insecure work environment that requires diversification.

Dallas and Houston, Texas and Atlanta, Georgia Roundtable Discussions

On January 12, 13, and 20, the Committee on Education and the Workforce’s American Worker at a Crossroads Project held its third, fourth, and fifth in a series of roundtable discussions and site visits in Texas and Georgia.

The AWP participants included Chairman Pete Hoekstra, majority committee staff members, minority staff counsel, and a representative from the Office of the Secretary of Labor. They met with a broad spectrum of workplaces, including more than 100 corporate executives, union and non-union workers, outside groups, constituents and educators. Additionally, Rep. Joe Barton (R-TX) attended the roundtable at Intel Corporation in Fort Worth, TX; Rep. Nathan Deal (R-GA) attended the roundtable at IBM in Atlanta, GA; and Rep. Robert Scott (D-VA) attended all sessions in Atlanta, GA.

GTE Service Corporation, Irving, TX

On January 12, 1998, nine representatives of GTE Service Corporation met with Congressman Hoekstra, AWP staff and a representative from the U.S. Department of Labor. The focus of the discussion was to learn about the federal laws hindering the workplace, the cost of compliance with these laws, and workplace trends in the communications industry. Issues discussed included the following:

1. The problem with drugs in the workplace;
2. The need for elimination of restrictions on the use of flextime;

3. How the intrusion of certain governmental regulations, such as the Employee Retirement Income Security Act [P.L. 92-261 (Mar. 24, 1972) 86 Stat. 103], affects the efficient use of independent contractors;
4. Concerns with appropriate implementation of the Family Medical Leave Act (29 U.S.C. § 2601 *et. seq.*); and
5. The problems associated with interpreting the Americans with Disabilities Act (42 U.S.C. § 12101 *et. seq.*).

Workforce Development Board, Irving, TX

On January 12, 1998, four representatives of the Workforce Development Board met with Congressman Hoekstra, AWP staff and a representative from the U.S. Department of Labor. The focus of the discussion was to learn about the federal laws hindering the workplace and the needs of Dallas area businesses and prospective employees. Issues discussed included the following:

1. The complexity and lack of flexibility of Federal Grant Programs;
2. The overall need to address basic education and illiteracy;
3. The necessity of workplace child care, and the importance of consideration of the 10-14-year-old age group; and
4. The success stories of the Texas Job Training Partnerships.

Intel Corporation, Fort Worth, TX

On January 12, 1998, eleven representatives of the semi-conductor and high-technology industries and the Fort Worth Chamber of Commerce met with Congressman Hoekstra, Congressman Joe Barton (R-TX), AWP staff and a representative from the U.S. Department of Labor at the Intel Corporation facility. The focus of the discussion was to learn of innovative practices in the workplace and federal impediments existing in recruiting and maintaining the workforce. Issues discussed included the following:

1. The need for an increased cap on H1-B visas due to the shortage of technical workers in the U.S. (subsequently legislation on this issue was enacted as P.L. 105-277);
2. How the Team Act [H.R. 634, 105th Cong. (1997); S. 295 RS, 105th Cong. (1997)] would result in improvements in productivity and job satisfaction;
3. The need for improvement in basic education for American workers; and

4. Different innovative approaches to business survival.

Greater Houston Partnership, Houston, TX

On January 13, 1998, eighteen representatives of the Greater Houston Partnership (an organization focusing on economic development and world trade) and members of Citizens for a Sound Economy met with Chairman Hoekstra, AWP staff and a representative from the U.S. Department of Education. The focus of the discussion was to learn of innovative practices in the workplace, federal impediments existing in recruiting and maintaining the workforce, cumbersome federal grant regulations, and issues surrounding the employment of temporary workers. Items discussed included the following:

1. The increased use of a temporary workforce;
2. The desire to see development of transportable benefits;
3. The need for employees with basic skills;
4. The need for block grants and/or local control of job training monies;
5. The lack of a clear and consistent U.S. Department of Labor regulation system;
6. The fear that companies have of government agencies, even those that claim to be intervening to help;
7. The increased use of contract employees for more employee and employer flexibility and higher wages;
8. The growing problem with drugs and alcohol in the workplace; and
9. The current tort system and its negative impact on businesses.

Small business roundtable, Roswell, GA

On January 20, 1998, eight representatives of the small business and education communities met with Congressman Hoekstra, Congressman Bobby Scott (D-VA), AWP staff and a representative from the U.S. Department of Labor. The focus of the discussion was to learn about the federal laws hindering the small business workplace and the cost of compliance with these laws. Issues discussed included the following:

1. How federal regulations keep small businesses from being productive;
2. How laws governing non-exempt employees prevent flexibility in scheduling of work hours to best meet employee's needs.

3. The difficulty involved in determining the government's definition of a small business and which laws apply;
4. The fact that current education systems do not prepare students adequately; and
5. The emergence and implications of an older workforce beginning in 2015.

Persons with Disabilities and the Workplace Roundtable, Roswell, GA

Congressman Hoekstra and staff heard from six representatives from the Roswell community on workplace disability issues. The focus of the discussion was to learn about the federal laws hindering the employment of persons with disabilities. Issues discussed included the following:

1. How Medicaid assistance creates a disincentive for persons with disabilities to find employment;
2. The negative effect that income cliffs have on people who are receiving Social Security Disability Income; and
3. The need for technology to accommodate people with disabilities.

Lockheed-Martin Aeronautical Systems, Marietta, GA

On January 20, 1998, sixteen union and management representatives from Lockheed-Martin Aeronautical Systems met with Congressman Hoekstra, Congressman Bobby Scott (D-VA) AWP staff and a representative from the U.S. Department of Labor. Discussion focused on issues concerning the workplace, such as:

1. The difficulty in determining the classifications for exempt and non-exempt employees due to regulations in the Fair Labor Standards Act (29 U.S.C. § 201);
2. The importance of teamwork for a competitive 21st century; and
3. Suggestions for how companies can reinvent their structure to increase productivity and worker contentment.

International Business Machines Corporation (IBM), Smyrna, GA

On January 20, 1998, ten IBM representatives met with Congressman Hoekstra, Congressman Nathan Deal (R-GA), Congressman Bobby Scott (D-VA), AWP staff and a representative from the U.S. Department of Labor. A tour of IBM's mega-center was conducted and the following issues were discussed:

1. The efficiency of IBM's inside sales mega-center;
2. How government regulations of non-exempt employees are contrary to strategic development; and
3. The positive effect that the Team Act [H.R. 634, 105th Cong. (1997); S. 295 RS, 105th Cong. (1997)] would have on ensuring competitiveness.

BellSouth Corporation, Atlanta, GA

On January 20, 1998, seven representatives of BellSouth Corporation met with Congressman Hoekstra, Congressman Bobby Scott (D-VA), AWP staff and a representative from the U.S. Department of Labor. Issues discussed included the following:

1. Concern that America's current educational system is not preparing students for the workplace;
2. Concern over the classification of "inside" salespeople as non-exempt employees, and the negative impact this has on their potential for advancement and productivity; and
3. Concern with aspects of the Family and Medical Leave Act (29 U.S.C. §2601 *et seq.*).

Greenville, South Carolina Roundtable Discussions

On February 17, 1998, the Committee on Education and the Workforce's American Worker Project held its sixth of a series of roundtables and site visits, taking place in Greenville, SC.

The AWP participants included Chairman Pete Hoekstra, several majority staff members, the minority staff counsel, and a representative of the U.S. Secretary of Labor's office. They met with a broad spectrum of the workplace, including more than 250 corporate executives, union and non-union workers, small business groups, constituents, and educators. Representative Lindsey Graham (R-SC) also attended the discussion.

Fluor Daniel, Greenville, SC

On February 17, 1998, eight Fluor Daniel craftworkers and eight Fluor Daniel operations department members met with Congressman Hoekstra and AWP staff. The focus of the discussion was to learn about the construction industry, federal laws

hindering Fluor Daniel's operation, and the cost of compliance with the federal workplace laws. Issues discussed included the following:

1. The changing concept of the American workplace, specifically in the construction industry;
2. The company's increased use of and improvements in safety measures;
3. The need for a better relationship between the Occupational Safety and Health Administration and private industry;
4. The concern over the political nature of the National Labor Relations Board and its ineffectiveness; and
5. The company's training and education programs that help to improve worker skills.

Perception Kayaks, Inc., Greenville, SC

On February 17, 1998, thirteen workers from Perception Kayaks, Inc. met with Congressman Hoekstra, Congressman Lindsey Graham, AWP staff and a representative from the Department of Labor. The discussion centered around the uniqueness of this innovative workplace, including:

1. The fact that the company's success is based on internal community spirit;
2. The company's Voluntary Honor Code and its contribution to company integrity;
3. The on-the-job training program and its contribution to success; and
4. The company's productivity plan and how it has enhanced the worker/management relationship.

Delta Woodside Co., Fountain Inn, SC

On February 17, 1998, seventeen workers and managers of Delta Woodside Textile Company met with Congressman Hoekstra and AWP staff. The focus of the discussion was Delta Woodside's story of how they made a comeback and what it takes to succeed in the textile industry, including the following:

1. The company's \$60 million upgrade to stay successful;
2. How the change in business structure improved respect and cooperation between management and workers;

3. The fact that the Occupational Safety and Health Administration hinders effective company policy, and fails to coordinate with businesses;
4. The company's practice of training workers and managers together.

Small and Large Businesses Roundtable, Greenville, SC

On February 17, 1998, seventeen small and large Greenville, SC area business owners and employees met with Congressman Hoekstra and AWP staff at the Greenville Chamber of Commerce. Issues discussed included the following:

1. The need to evaluate onerous federal regulations;
2. The employee and employer frustration with the overtime regulations of the Fair Labor Standards Act (29 U.S.C. § 201) and its lack of a compensatory time option, an option that is currently allowed for public sector employees;
3. Concern over frivolous claims filed with the Equal Employment Opportunity Commission and the need for better regulation of claims;
4. Frustration with the Americans with Disabilities Act (42 U.S.C. §12101 *et. seq.*) and its conflicts with the Family Medical Leave Act (29 U.S.C. §2601 *et. seq.*);
5. Concern over frivolous Occupational Safety and Health Administration regulations; and
6. The abuse of the Family and Medical Leave Act (29 U.S.C. § 2601 *et. seq.*) by employees and the subsequent negative effects on companies.

Troy, Michigan Roundtable Discussions

On April 13 and 14, 1998, the Committee on Education and the Workforce's American Worker Project held its seventh of a series of roundtables and site visits, taking place in Troy, MI.

The AWP participants included Chairman Pete Hoekstra, several majority staff members, the minority staff counsel, and a representative of the U.S. Secretary of Labor's office. They met with a variety of business leaders.

United Solar Systems Corp., Troy, MI

On April 13, 1998, four members of the Energy Conversion Devices, Inc. family of firms (which includes United Solar Systems Corporation) met with Congressman

Hoekstra and staff. The focus of the discussion was to learn about the innovative technology and manufacturing fostered by these companies. Issues discussed included the following:

1. The innovative overseas partnerships in which these companies currently participate; and
2. The high efficiency of the innovative technology used in these companies.

Business Leaders, Troy, MI

On April 13, 1998, representatives of Troy, Michigan's businesses met with Congressman Hoekstra and staff. The focus of the discussion was to learn about the experiences of businessmen and women in the Troy region. Issues discussed included the following:

1. The need for fewer labor laws, due to the expense of compliance;
2. The frustration with contradictory laws;
3. The need for crisper, clearer definition of the issues addressed by the Equal Employment Opportunity Commission;
4. The frustration with minimum wage requirements, and the view that the market should determine the minimum wage; and
5. The need for an increase in the H1-B visa cap.

Chrysler Corporation, Auburn, MI

On April 14, 1998, spokesmen of the Chrysler Corporation and representatives of automobile manufacturing human resources met with Congressman Hoekstra and staff. The focus of the discussion was to learn about the experiences of automobile manufacturing industry from the management's perspective. Issues discussed included the following:

1. The importance of training for all employees (including those in management) within the automobile manufacturing workplace;
2. The need for teamwork in the contemporary work environment; and
3. The effect of an aging workforce on the automobile industry.

GRAND TOTAL FOR ROUNDTABLE ACTIVITY

Number of sites	[25]
Number of roundtables	[30]
Number of participants	[290]
Union participants	[17]

1. SEATTLE, WA /SANTA CLARA, CA TRIP

Washington State

Sites	[5]
Roundtables	[6]
Total Participants	[52]
Union Participants	[5]

Names of Sites:	Participants:
1) Odyssey-Maritime Discovery Center	[11]
2) Fraser Boiler Company	[5]
3) Construction Industry Training Council (CITC)	[11]
4) Microsoft roundtable, and four presentations – 2 events	[14] [5]
5) Waste Water Treatment facility	[11]

- Names of Businesses/organizations participating:**
- Wolfe LLP, Puget Sound Metals Trade Council, International Brotherhood of Boilermakers Local #104, Icicle Seafoods, Inc., Manson Construction Co., American President Lines, Ltd., Totem Ocean Express, Inc., Odyssey Maritime Discovery Center;
 - Fraser Boiler Company;
 - Rafn Company, Construction Industry Training Council, Washington State Associated Builders and Contractors, Labor Bureau of Apprenticeship and

Training, SME, Tangent Electric, Gene Johnson Heating and Plumbing, Mastercraft Electric;

- American Electronics Association, EMF Corp. GM Nameplates, Microsoft, Intermec, Technologies, Metawave Communications Co., Engineering Corporation of America, Aegis Group, Inc., Eaton Corporation, North Seattle Community College, Fluke Corporation, Korry Electronics Company;
- King County Water Waste Management Plant, Service Employees International Union # 6, West Point Water Treatment Plant.

California

Sites	[3]
Roundtables	[4]
Total Participants	[34]
Union Participants	[0]

Names of Sites:

Participants:

- | | |
|--|------|
| 1) American Electronics Association – 2 events | [25] |
| A) Cybernation presentation and discussion | |
| B) roundtable discussion | |
| 2) Mission Community College | [3] |
| 3) 3Com lunch and tour | [6] |

Names of Businesses/organizations participating:

- Adobe Systems International, Advances Micro Devices, Inc, American Electronics Association, Cannon Research Center of America, Hewlett-Packard Company, Careerworks, Endgate, IBM, ANSA Incorporated, Phillips Semiconductors, RJC & Company, Silicon Engineering, Inc., Sun Microsystems, Inc., Xiliinx;
- Mission Community College;
- 3Com.

2. TEXAS TRIP

Sites	[4]
Roundtables	[6]
Total Participants	[60]
Union Participants	[0]

Names of Sites:	Participants:
1) GTE Services Corporation – 2 events	
A) GTE corporate	[9]
B) Dallas Chamber of Commerce Lunch	[4]
2) Alliance Inter-modal tour	[5]
3) Intel Corporation	[11]
4) Greater Houston Partnership – 2 events	
A) Session I	[18]
B) Session II	[13]

- Names of Businesses/organizations participating:**
- GTE;
 - Beck Group, Dallas Community College, Dallas County Local Workforce Development Board, BellSouth;
 - Intel, Texas Instruments, National SemiConductor, TwinStar SemiConductor, Fort Worth Chamber of Commerce, Public Strategies Incorporated, USHOR,
 - Alliance Development Corporation;
 - Enterprise Advisory Services, Inc., Texaco, Southern Methodist University, UPS, Compaq, W.J. Alexander & Associates, Hartland Bank, Houston-Galveston Area Council, Houston Community College System, Greater Houston Partnership, Citizens for a Sound Economy, Vastar Resources, Inc., Fluor Daniel, Sweetwater Corporation, Quantum Resources, National Association of Business Owners, Shell Oil Co., Lubrizol, Benefit Concepts, Inc., International Business Consultants.

3. GEORGIA TRIP

Sites	[4]
Roundtables	[5]
Total Participants	[40]
Union Participants	[4]

Names of Sites:	Participants:
1) Roswell City Hall – 2 events	
A) Small Business group	[9]
B) Disabilities group	[6]
2) Lockheed Lunch and site tour	[13]
3) IBM Atlanta Sales Center and site tour	[10]
4) BellSouth and site tour	[7]

- Names of Businesses/organizations participating:**
- Rhodes, Young, Black and Duncan, CPAs, MDH Consulting, State Farm Insurance, Medical Evaluation and Testing Services, Georgia State University, Clayton College and State University, Samples, Leduc and Hulsey, LLC;
 - Center for Rehab Technology, Center for Visually Impaired, Shepherd Center (quadra-rehab);
 - Lockheed, International Association of Machinists Lodge # 709;
 - IBM;
 - BellSouth.

4. SOUTH CAROLINA TRIP

Sites	[4]
Roundtables	[4]
Total Participants	[63]

Names of Sites:**Participants:**

- | | |
|-----------------------------------|------|
| 1) Fluor Daniel at GE | [16] |
| 2) Perception Kayak | [13] |
| 3) Delta Woodside Beattie plant | [17] |
| 4) Greenville Chamber of Commerce | [17] |

Names of Businesses/organizations participating:

- Fluor Daniel;
- Perception Kayak;
- Delta Woodside Beattie Plant, Delta Woodside Furman Plant, Delta Woodside Headquarters;
- Greenville Chamber of Commerce, Phillips Fibers Corporation, Thompson and Hutson Law Firm, South Carolina Employment Security Commission, Computer Dynamics, Associated Packaging, Inc., Insignia Financial Group, Inc., Piedmont Natural Gas Company, Ashmore Brother, Inc., Greenville Hospital Corporation, Greenville Technical College, Southeastern Microwave, Inc., Specialty Distributors, Inc., Horizon CNC Products, Inc., Tuffaloy Products, Inc., Michelin of North America.

5. MICHIGAN TRIP

Sites	[3]
Roundtables	[3]
Total Participants	[32]

Names of Sites:**Participants:**

- | | |
|-------------------------------------|------|
| 1) United Solar Systems Corporation | [5] |
| 2) Shields of Troy Restaurant | [17] |
| 3) Chrysler World Headquarters | [10] |

Names of Businesses/organizations participating:

- United Solar Systems Corporation, Energy Conversion Devices;
- Shields of Troy Restaurant, Troy Chamber of Commerce, Kelly Services, Data One, Inc., K-Mart, Linda Weston Personnel, Inc., Saks Fifth Avenue, Kemp, Klein, Umphrey & Endleman, Kamaxus, Inc., Auburn Metalfab, Inc., Dean & Fukerson;
- Chrysler Corporation, Ford Motor Company, General Motors Corporation.

6. WASHINGTON, DC

Number of site	[1]
Number of Roundtables	[1]
Number of Participants	[8]

Name of site: American Worker Project offices

Names of Businesses/organizations participating:

- Communications Workers of America (CWA), American Federal of Labor - Congress of Industrial Organizations (AFL-CIO), Industrial Union of Operating Engineers (IUOE), Service Employees International Union (SEIU).

APPENDIX #4

Hearings

APPENDIX #4

HEARINGS

The American Worker Project held a total of 13 hearings over the course of an eleven-month time period from October 1997 until September 1998. These hearings, and the witnesses that appeared at each, are listed below.

1) HEARING ON THE FUTURE OF WORK IN AMERICA

Chaired by Rep. Pete Hoekstra (R-MI), in Washington, DC

October 29, 1997

2175 Rayburn House Office Building at 10:30 a.m.

Six witnesses - one panel

The Honorable William Brock, Former U.S. Secretary of Labor and former U.S. Senator

Dr. Edward Montgomery, Chief Economist, Department of Labor (Minority witness)

Dr. Carol D'Amico, Senior Fellow, Hudson Institute (Alan Reynolds)

Dr. Thomas Malone, Founder and Director, Massachusetts Institute of Technology Center for Coordination Science

Dr. Jared Bernstein, Economist, Economic Policy Institute (Minority witness)

Dennis Lambka, Chairman, Simplified Employment Services

2) HEARING ON WORKPLACE COMPETITIVENESS ISSUES

Chaired by Rep. Pete Hoekstra (R-MI), in Washington, DC

March 31, 1998

2175 Rayburn House Office Building at 2:00 p.m.

Ten witness (six confidential and protected), four panels

Panel One

The Honorable William F. Goodling, Chairman, Committee on Education and Workforce

Panel Two

Professor Peter Kwong, Director Asian Studies, Hunter College, New York, NY

Robert Fitch, freelance writer

Panel Three

John Fraser, Acting Administrator, Wage and Hour Division, Department of Labor (Minority witness)

Panel Four

Six confidential and protected witnesses from garment factories, Chinatown, NY

3) HEARING ON THE EMERGING HIGH-TECH INDUSTRY

Chaired by Rep. Pete Hoekstra (R-MI), in Washington, DC

April 23, 1998
2175 Rayburn House Office Building at 1:30 p.m.
Five witnesses, two panels

Panel One

William T. Archey, President and CEO, American Electronics Association

Panel Two

James Mitchell, Vice President, Human Resources, Texas Instruments

Rick Martino, Vice President, National Human Resources Operations, IBM

Rebecca Guerra, Vice President, Human Resources, Adobe Systems, Inc.

Dr. Robert Lerman, Director, Human Resource Policy Center, Urban Institute
(minority witness)

**4) HEARING ON THE EFFECTS OF ENFORCEMENT OF INDUSTRIAL AGE
LABOR LAWS ON AMERICAN WORKERS IN THE INFORMATION AGE**

Chaired by Rep. Pete Hoekstra (R-MI), in Washington, DC

April 28, 1998

2261 Rayburn House Office Building at 2:00 p.m.

Five witnesses, one panel

Patrick O'Hara, Vice President, Human Resources and Facilities, Fluke
Corporation

Dwayne Samples, Partner, Samples, Leduc, and Hulsey, LLC

Richard Ashmore, Owner, Ashmore Brothers, Inc.

Bernard Hayes, Program Manager, Cannon Research Center America

Eileen Appelbaum, Associate Research Director, Economic Policy Institute
(minority witness)

**5) HEARING ON THE POTENTIAL FOR ARBITRARY BEHAVIOR BY
DEPARTMENT OF LABOR**

Chaired by Rep. Charlie Norwood (R-GA), in Washington, DC

May 8, 1998

2175 Rayburn House Office Building at 10:00 a.m.

Five witnesses, one panel

Marshall Breger, Former Solicitor of Labor

Charles Jeffress, Assistant Secretary, OSHA, Department of Labor

John Fraser, Acting Administrator, Wage and Hour Division, Department of
Labor

Stanley Levy, Chairman, Labor Committee, California Fashion Association

Baruch Fellner, representing the Chamber of Commerce

No minority witness

**6) HEARING ON THE FAILURES AND PROMISES OF THE GARMENT
INDUSTRY IN CALIFORNIA**

Chaired by Rep. Pete Hoekstra (R-MI), in Los Angeles, CA

May 18, 1998

1268 US Bankruptcy Court, Edward Roybal Federal Building and Courthouse, 225 East Temple Street, Los Angeles, CA 90012 at 9:00 a.m.

Ten witnesses, one panel

Julie Su, Esq., Attorney, Asian Pacific American Legal Center (minority witness)

Enriqueta Soto, garment worker

Linda Klibanow, Esq., Attorney, Parker, Milliken, Clark, O'Hara & Samuelian

Tauni Simo, UNITE member, Sorrento Coats Employee

Maria Ramirez, UNITE member, Sorrento Coats Employee

Petra DeLeon, UNITE member, Sorrento Coats Employee

Sang Yun Lee, Former President, Goodtime Fashions, Inc., Song of California Apparel Company, Inc.

Lonnie Kane, President, Karen Kane, Inc.

Richard Reinis, Esq., General Counsel, The Compliance Alliance

Paul Gill, Senior Project Manager, Northern California Manufacturing Extension Partnership – Manex

Two Department of Labor witnesses refused to testify

7) HEARING ON INNOVATIVE WORKPLACES FOR THE FUTURE

Chaired by Rep. Pete Hoekstra (R-MI) in Washington, DC

May 20, 1998

2175 Rayburn House Office Building at 10:00 a.m.

Eight witnesses, one panel

Mary Joyce, Senior Director of Compensation and Benefits, Enron

Beth Tilney, Senior Vice President for Advertising, Communications, and Organization Development, Enron

Ben Houston, President and CEO, TD Industries

Mary Anne Walk, Vice President of Labor Relations and Human Resources, AT&T

Conchita Robinson, Vice President, US Sales Centers, IBM

Paul Rausch, I/N TEK I/N KOTE, President Local #9231, United Steel Workers of America (USWA)

John Nielsen, Manager of Human Resources, I/N TEK I/N KOTE

David Sloan, General Manager, Cotton Division, Delta Woodside

No minority witness

8) HEARING ON EVALUATING THE REGULATORY PRACTICES OF THE DEPARTMENT OF LABOR

Chaired by Rep. Charlie Norwood (R-GA) in Washington, DC

June 19, 1998

2175 Rayburn House Office Building at 10:00 a.m.

Three witnesses, one panel

Ernest Gellhorn, Professor, George Mason University School of Law
Ida Castro, Acting Director, Women's Bureau, Department of Labor
Suzanne Seiden, Acting Deputy Administrator, Wage and Hour Division,
Department of Labor
No minority witness

**9) MEETING THE NEEDS OF THE TWENTY-FIRST CENTURY
WORKPLACE**

Chaired by Rep. Pete Hoekstra (R-MI) in Washington, DC

June 24, 1998

2261 Rayburn House Office Building at 2:00 p.m.

Thirteen witnesses, two panels

Panel One

The Honorable Stephen Goldsmith, Mayor, Indianapolis, IN
Gerald McEntee, International President, American Federation of Federal, State,
County and Municipal Employees (AFSCME)
C. William Pollard, Chairman, The ServiceMaster Company
Max Sawicky, Economist, Economic Policy Institute (minority witness)

Panel Two

Denny Harris, Executive Director, Small Office Home Office Association
Robert Rzonca, Senior Vice President/Chief Personnel Officer, IPSCO, Inc.
Scott Shortridge, Maintenance Operator, IPSCO, Inc.
David Libby, Human Resources Manager, Champion Paper
Thomas Dougherty, President, United Paperworkers International Union
(UPIU), Local #274
James Dowdall, Vice President, Labor Relations, Bell Atlantic
Kenneth Canfield, Telecommunications Technical Associate, Bell Atlantic and
participant in "Next Step Project," and member of the Communications Workers
of America (CWA)
Elizabeth Jarrett, Principal, CS 154M (Harriet Tubman Learning Center in
Central Harlem)
Leroy Barr, Teacher, CS 154M (Harriet Tubman Learning Center in Central
Harlem) and member United Federation of Teachers (UFT)

**10) THE RATIONALE FOR AND EFFECTS OF THE GARMENT INDUSTRY
PROVISO UNDER SECTION 8(e) OF THE NATIONAL LABOR
RELATIONS ACT**

Chaired by Rep. Pete Hoekstra (R-MI) in Washington, DC

August 6, 1998

2175 Rayburn House Office Building at 10:00 a.m.

Six witnesses, one panel

The Honorable John Dunlop, Former Secretary of Labor (minority witness)
The Honorable Ray Marshall, Former Secretary of Labor (minority witness)
Jay Mazur, President, UNITE (minority witness)

James Wimberly, Esq., Wimberly and Lawson
Robert T. Thompson, Esq., Thompson & Hutson
Joel E. Cohen, Esq., McDermott, Will & Emery

**11) REGULATORY ACTIVITIES AT THE U.S. DEPARTMENT OF LABOR –
GARMENT INDUSTRY TRENDSETTERS**

Chaired by Rep. Charlie Norwood (R-GA) in Washington, DC
September 10, 1998
2175 Rayburn House Office Building at 10:00 a.m.
Two witnesses, one panel

Suzanne B. Seiden, Acting Deputy Administrator, Wage & Hour Division, U.S.
Department of Labor
Andrew James Samet, Acting Deputy Under Secretary, International Labor
Affairs Bureau, U.S. Department of Labor
No minority witness

12) THE ROLE OF BUSINESS IN THE COMPETITIVE GARMENT INDUSTRY

Chaired by Rep. Pete Hoekstra (R-MI) in Washington DC
September 25, 1998
2175 Rayburn House Office Building at 10:00 a.m.
Two witnesses, one panel

Larry Martin, President, American Apparel Manufacturers Association
Catherine Nolan, Assemblywoman, New York State Legislature (minority
witness)

**13) US DEPARTMENT OF LABOR: FINANCIAL ANALYSIS AND
MANAGEMENT ACCOUNTABILITY**

Chaired by Rep. Pete Hoekstra (R-MI) in Washington, DC
September 28, 1998
2261 Rayburn House Office Building at 1:30 p.m.
Four witnesses, one panel

James McMullen, Deputy Assistant Secretary, OSAM, DOL
Kenneth Bresnahan, Acting Deputy Chief Financial Officer, Office of Chief
Financial Officer, DOL
Patricia Dalton, Deputy Inspector General, Office of Inspector General, DOL
Dr. Carlotta Joyner, Director, Education and Employment Issues US General
Accounting Office
No minority witness

APPENDIX #5

Department of Labor Documentation
Not available electronically

APPENDIX #6

OSHA's Enforcement Discretion: A Review of the "Must-Cite" Principle

Not available electronically

APPENDIX #7

Americas with Disabilities Act Discussion Participants

APPENDIX #7

AMERICANS WITH DISABILITIES ACT

Discussion

2261 Rayburn House Office Building
Monday, October 5, 1998
2:00 p.m.

PARTICIPANTS

Christopher G. Bell

Jackson, Lewis, Schnitzler & Krupman

Peter Blanck

Director

Law, Health Policy and Disability Center

University of Iowa, College of Law

Andrew Imparato

National Council on Disabilities

Justin Dart

Co-Founder

Justice For All

Curtis L. Decker

Executive Director

National Association of Protection and Advocacy Systems, Inc.

Margaret Chase Hager

Doug Vollmer

Paralyzed Veterans of America

Edward Hailes

Deputy General Counsel

U.S. Commission on Civil Rights

Carol Hughes

Chairperson

Speaker's 6th District Task Force on Disabilities

Anne-Marie Hughey

Executive Director

National Council on Independent Living

Randy Johnson

U.S. Chamber of Commerce

Lois Keck

Coordinator of Independent Living Services
State of Maryland

Mary Leon

National Federation of Independent Businesses

Paul Marchand

Director
ARC of the United States

Paul Steven Miller

Equal Employment Opportunity Commission

Russell Redenbaugh

Commissioner
United States Commission on Civil Rights

Mark David Richert

Governmental Relations Representative
American Foundation for the Blind

Robert Silverstein

Center for the Study and Advancement of Disability Policy

Patrisha Wright

Director of Government Affairs
Disability Rights Education and Defense Fund, Inc.

Patrick Cleary

National Association of Manufacturers

Paul Hippolitus

President's Committee on
Employment of People with Disabilities

APPENDIX #8

Statement of Reasons Dismissing the Complaint of David Clay
Not available electronically

APPENDIX #9

Summary of American Worker Project Interview Activity

APPENDIX #9

SUMMARY OF AMERICAN WORKER PROJECT INTERVIEW ACTIVITY

The American Worker Project conducted a series of informational interviews at the Department of Labor. The interviews yielded much valuable information that was used in the formulation of recommendations for change. The following list represents those interviews:

June M. Robinson
Director
Office of Small Business Programs
December 1, 1997

Catherine Williams
National Office Coordinator
Alma R. Candelaria
Congressional and Intergovernmental Affairs
Women's Bureau
December 3, 1997

Cecily A. Rayburn
Financial Manager
Employment Standards Administration
December 15, 1997

Edward L. Jackson
Acting Director
Office of Budget
Office of the Assistant Secretary for Administration and Management
December 15, 1997

Judith E. Kramer
Deputy Solicitor for Planning and Coordination
Office of the Solicitor
December 15, 1997

John Seal
Deputy Executive Director
Judy Shub
Assistant Executive Director for Legislative Affairs
Pension Benefit Guaranty Corporation
December 15, 1997

Jack Rapport
Financial Manager
Employment and Training Administration
December 16, 1997

Anthony Swoope
Administrator
Bureau of Apprenticeship and Training
Employment and Training Administration
December 17, 1997

Brian C. McDonnell
Administrative Officer
Pension and Welfare Benefits Administration
Office of Program Planning, Evaluation and Management
December 17, 1997

John R. Fraser
Acting Administrator
William M. Gross
Director of Office of Wage Determinations
Wage and Hour Division
Employment Standards Administration
December 17, 1997

Susan J. Adams
Quality Management Manager of Programs
Bureau of Labor Statistics
December 18, 1997

Joe N. Kennedy
Deputy Director
Office of Federal Contract Compliance Programs
December 18, 1997

Sylvia Horowitz
Inspector General
Joseph McGowan
Director of Communications
Nancy Ruiz-de-Gamboa
Program Analyst
Office of the Inspector General
January 8, 1997

Paula White

Director of Federal State Operations
Occupational Safety and Health Administration
January 8, 1998

Joseph Ganci
Director, Division of Audit Operations
Robert R. Wallace
Regional Inspector General for Audit
John J. Getek, CPA
Assistant Inspector General for Audit
Joseph F. McGowan
Director of Communications
Office of Inspector General
January 14, 1998

Hary Puente-Duany
Director
Office of Information, Management and Budget
Veterans' Employment and Training Service
January 16, 1998

Richard L. Brechbiel
Deputy Administrator for Coal Mine Safety and Health
Mine Safety and Health Administration
January 23, 1998

Michael N. Griffin
Director
Division of Planning and Internal Control
Office of Financial Integrity
Office of the Chief Financial Officer
January 26, 1998

Robert Shepard
Office of Foreign Relations
Gabriela Araujo
Special Assistant to Deputy Under Secretary Samet
Bureau of International Labor Affairs
February 5, 1998

Harding Darden, Jr.
Chief, Budget Branch
Anne Purcell
Deputy Associate General Counsel
Richard Hardick
Associate Executive Secretary

National Labor Relations Board
February 24, 1998

Bruce Cranford
Garment Coordinator
Wage and Hour Division
Employment Standards Administration
February 26, 1998.

Maria Borrero
Executive Director
Ellen Vargas
Legal Counsel
Equal Employment Opportunity Commission
February 26, 1996

James E. McMullen
Deputy Assistant Secretary
Office of Budget
Office of the Assistant Secretary for Administration and Management
March 9, 1998

Josephine Gomez
Field Coordinator, Atlanta
Delores Crockett
Office of Policy and Programs
Women's Bureau
March 12, 1998

Randolph Lowe
Director of Management and Administrative Services
Office of Federal Contract Compliance Programs
Employment Standards Administration
March 12, 1998

Kathleen M. MacDonald
Assistant Commissioner
Office of Compensation Levels and Trends
William Parks
Special Assistant to the Commissioner
Bureau of Labor Statistics
March 17, 1998

Emzell B. Blanton
Acting Deputy Assistant Secretary for Enforcement
Occupational Safety and Health Administration

Joseph M. Woodward
Associate Solicitor
Division of Occupational Safety and Health
March 19, 1998

Suzanne B. Seiden
Acting Deputy Administrator
Wage and Hour Division
Employment Standards Administration
March 19, 1998

John R. Fraser
Acting Administrator
William M. Gross
Director of Office of Wage Determinations
Wage and Hour Division
Employment Standards Administration
March 20, 1998

Felix Contreras
Director of Business Operations
Office of the Assistant Secretary for Administration and Management
March 23, 1998

Felix Contreras
Director of Business Operations
Office of the Assistant Secretary for Administration and Management
April 9, 1998

Gerald M. Hall
District Director
Wage and Hour Division
Employment Standards Administration
April 17, 1998

Felix Contreras
Director of Business Operations
William Keisler
Division of Budget Policy and Systems
Office of the Assistant Secretary for Administration and Management
June 5, 1998

John Kotch
Deputy Assistant Secretary
Office of Labor-Management Standards
Employment Standards Administration

June 10, 1998

Lawrence G. Mullins
Director, Labor Racketeering Division
Stuart Eder
Deputy Director, Labor Racketeering Division
Stephen J. Cossu
Assistant Inspector General for Investigations
Joseph F. McGowan
Director of Communications
June 19, 1998

Numerous members of District 751
International Association of Machinists and Aerospace Workers
September 21-23, 1998

John Heaney
Seattle District Director
Daniel Lavik
Seattle Investigator
Don Logston
Seattle Investigator
Office of Labor-Management Standards
Employment Standards Administration
November 17, 1998

John Kotch
Deputy Assistant Secretary
Lary H. Yud
Chief of Enforcement
Office of Labor-Management Standards
Employment Standards Administration
Dennis Paquette
Office of the Solicitor
November 23, 1998

INTERVIEW SUMMARY 1

RE: June M. Robinson
Director
Office of Small Business Programs (OSBP)
(also known as the Office of Small Business and Minority Affairs)

DATE: December 1, 1997

PLACE: Ford House Annex, Room 243

PRESENT: Myron Zeitz, Solicitor's Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

Ms. Robinson was asked questions regarding the U.S. Department of Labor's submission to Congress under the "Results Act." OSBP is a small agency that helps small, minority-owned business to obtain DOL contracts and other assistance, and also makes regulatory guidance available to small business. To accurately measure its results, Ms. Robinson stated, the agency would have to send follow-up surveys to the small businesses it has helped. The Paperwork Reduction Act, however, limits an agency's ability to do this. In any event, the OSBP will be using on-line outreach to increase the pool from which its participants are selected. The agency will then be using the size of the pool as the baseline to measure its results, the not just the number of participants. Ms. Robinson indicated that this was the best performance measure the agency could come up with. She also seemed concerned that the fact that she was being interviewed was an indication that Congress wanted to cut or eliminate her agency.

INTERVIEW SUMMARY 2

RE: Edward L. Jackson
Acting Director
Office of Budget
Office of the Assistant Secretary for Administration and Management
(OASAM)

DATE: December 15, 1997

PLACE: DOL, Room S-3215 (C)

PRESENT: Myron Zeitz, Solicitor's Office
Bill Buie, Office of Congressional Affairs

Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

Mr. Jackson, and his assistant Patricia Vastano, were responsible for the preparation of the Department of Labor's first strategic plan under the "Results Act," and were also involved in the process by which the various agency plans were coordinated. According to Mr. Jackson, "pilot" strategic plans were prepared by OSHA, ETA and PBGC. Mr. Jackson began drafting the Results Act report during the budget process in 1996. Thereafter, the process began in earnest following OMB guidance that was received in January of 1997. A Results Act implementation group was established with key staff people from all the agencies led by then Deputy Secretary Cynthia Metzler. A draft of the Department's plan was ready by March 1997, after which Mr. Jackson attended meetings with congressional staff. The new Secretary arrived in May, a factor that in Mr. Jackson's mind complicated the organizational process.

The Department's initial, "draft" plan received an interim score of 6.5 out of a possible 100 from the GAO and Congress in July 1997. After receiving these grades, Mr. Jackson spoke to Lori Rectanus of GAO and Larry Matlock of OMB. Though Mr. Jackson did not agree with the score, it is apparent that there was a major departmental effort to improve all of the plans. They reviewed the plans of HHS and the Department of Education, and scheduled a series of intense consultation sessions in early August with the Ivy Group, headed by a person identified by Mr. Jackson as Carolyn Burstein. These sessions stressed identification of goals and outcomes as reflected in the GAO's evaluation criteria. Each agency was provided with a "template" for its final report. This raises questions as to whether the Department violated the Results Acts requirement that the plans be written by government personnel.

The final reports were submitted in late September. Mr. Jackson indicated that the most difficult part of this process was identifying outcomes rather than outputs, and establishing by which criteria by which their results can be measured. Often the data for measurement is just not available, and so many agencies will have to establish benchmark data. This is expensive and will take time. Crosscutting of agency functions may help, but this too will take time and can be politically difficult. He also believes that the plans could be much simpler.

INTERVIEW SUMMARY 3

RE: Cecily A. Rayburn
Financial Manager
Employment Standards Administration (ESA)

DATE: December 15, 1997

PLACE: DOL, Room S-3215 (C)

PRESENT: Myron Zeitz, Solicitor's Office

Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

Ms. Rayburn remembers the Results Act process beginning sometime in 1996. She was responsible for coordinating the plan with all the program agencies, which include the Wage and Hour Division (WHD), the Office of Federal Contract Compliance Programs (OFCCP), the Office of Labor-Management Standards, and the Office of Workers' Compensation Programs (OWCP). She organized various subgroups of ESA staff, and gradually pulled the plan together. She concentrated on defining goals, and identifying outcomes as opposed to outputs. At a Departmental meeting in early August, Carolyn Burstein of the Ivy Group used flip charts and checklists to help ESA identify outcomes. Ms. Rayburn was careful to deny that the Ivy Group had actually written or edited any part of ESA's plan. Her biggest problem was not the substance of the report required by the Results Act, but in how best to present ESA's goals and outcomes.

Ms. Rayburn is not an expert in any of ESA's program areas. She identified Shelby Hallmark as the person responsible for the Black Lung Program and all other ESA workers' compensation programs. She is aware that the return to work provisions of Federal Employees' Compensation Act are much abused. ESA uses "periodic roll management" (checking older cases for eligibility) and nursing initiatives to combat what she characterized as an essentially political problem. She identified John Fraser as the person responsible for Wage and Hour issues. She knows that there are special Wage and Hour initiatives in the garment industry, and also knows that Wage and Hour is considering the use of BLS wage data to determine Davis-Bacon prevailing wage rates. She identified Deputy Assistant Secretary John Kotch as the person best able to discuss labor union reporting requirements arising under the Labor-Management Reporting and Disclosure Act.

INTERVIEW SUMMARY 4

RE: Judith E. Kramer
Deputy Solicitor for Planning and Coordination
Office of the Solicitor (SOL)

DATE: December 15, 1997

PLACE: DOL, Room S-3215 (C)

PRESENT: Myron Zeitz, Solicitor's Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

Ms. Kramer remembers working on the Results Act strategic plan for about 8 to 10 months during 1997. She was designated by Solicitor McAteer to coordinate SOL's strategic plan. She recalls working from guidance documents provided by both DOL and OMB, and she was part of a DOL Results Act advisory committee. Cathy Sullivan, who is SOL's Budget Manager, was especially helpful in developing performance measures. The Ivy Group did provide some assistance with the SOL's plan at departmental meetings held in August. Ms. Kramer remembers that the most difficult aspect of preparing SOL's plan was expressing the functions of a law office in terms of measurable outcomes.

As for specific questions regarding SOL functions, Ms. Kramer identified John Depenbrock and Barton Widom as ILAB specialists and Joseph Woodward as the Associate Solicitor for OHSA.

INTERVIEW SUMMARY 5

RE: John Seal
Deputy Executive Director
Judy Shub
Assistant Executive Director for Legislative Affairs
Pension Benefit Guaranty Corporation (PBGC)

DATE: December 15, 1997

PLACE: DOL, Room S-3215 (C)

PRESENT: Myron Zeitz, Solicitor's Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

Though PBGC is an independent agency, the Secretary of Labor is the Chairman of its board, which also includes the Secretaries of Commerce and Treasury.

Contrary to Mr. Jackson's recollection, Mr. Seal said that his agency did not participate in a Results Act pilot study. In any event, he does recall a meeting of PBGC's senior managers in 1995 at which ideas for a 5-year strategic plan were discussed. PBGC's managers began to work up ideas for performance measures at this meeting, and had subsequent discussions with their outside advisory board, which is made up of officials from the IRS and PWBA. PBGC began the Results Act process in early 1997, following receipt of a departmental guidance document from Deputy Secretary Cynthia Metzler.

Mr. Seal remembers that PBGC had a draft strategic plan ready “early.” There were meetings with OASAM’s Acting Budget Director, Ed Jackson, and his assistant Pat Vastano, and they gave PBGC written comments on their draft. Though Mr. Seal knows Carolyn Burstein of the Ivy Group, he denied that PBGC received any assistance from the Ivy Group in preparing their plan. Mr. Seal recalls doing one final adjustment of PBGC's plan pursuant to a departmental memorandum. Assessing the Results Act process, Mr. Seal stressed that it was very difficult to express the insurance function that PBGC serves in terms of measurable outcomes.

Regarding PBGC operations, Mr. Seal said that higher insurance premium revenue for underfunded pension plans required by the Retirement Protection Act of 1994, together with investment gains and an absence of major pension plan termination, has enabled his agency to show its first ever budget surplus. He also cited the success of PBGC's Early Warning Program, a Bush Administration initiative whereby the agency monitors companies with underfunded pension plans and negotiates agreements when transactions or restructurings occur to ensure that workers' pensions are protected. The Pension Search Program, also created by the Retirement Protection Act of 1994, helps PBGC locate people owed pension money from terminated defined benefit pension plans. PBGC locates people in plans it has taken over where the records of troubled companies were lost or in disarray.

Alice Mary Leach, who now works on Chairman Burton’s investigative staff, was a Republican appointee at PBGC. She knows of two matters referred to the IG, and Mr. Seal clearly did not expect questions regarding them. Office Specialty is a minority owned contractor that was given a PBGC contract to perform benefit administration and fieldwork. After the IG investigated a claim that Office Specialty was a sole source, new contracts were awarded to other contractors. A similar claim regarding Carter Associates is now under investigation by the IG.

INTERVIEW SUMMARY 6

RE: Jack Rapport
Financial Manager
Employment and Training Administration (ETA)

DATE: December 16, 1997

PLACE: DOL, Room S-3215 (C)

PRESENT: Myron Zeitz, Solicitor’s Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

Though he was responsible for coordinating ETA's Results Act plan, Mr. Rapport explained that he was only one of a team that included Erica Cantor from the Budget Office, Bob Litman and Patricia Carroll from the Office of Policy Research, and Mary Ann Wyrsh from the Unemployment Insurance Service. Mr. Rapport also made it clear that the various program offices within ETA did most of the writing. He is not certain when the process began, but he does recall that the Results Act became an agenda item at executive staff meetings.

The first draft of ETA's strategic plan was ready in March of 1997. This draft was sent to the Hill, after which Assistant Secretary Uhalde, Ms. Wyrsh and Ms. Cantor met with congressional staff. This draft was also circulated to stakeholders for comment. Someone from the Ivy Group briefed ETA at a Departmental meeting late in the process. Using GAO's evaluation forms, the Ivy group helped ETA to identify outcome measures. Mr. Rapport was careful not to say that the Ivy Group actually helped draft the strategic plan. There was a final reformatting of ETA's plan to conform with DOL's August 4 1997 memo. The finished plan was then submitted in late September. Unlike most of the agency personnel we have interviewed, Mr. Rapport denied that ETA had particular difficulty expressing outcome measures for its programs or that ETA will have difficulty measuring its results. In reality, though, ETA will have great difficulty proving results, since it has a limited access to wage records and therefore a limited ability to track the job success of the trainees from its various programs.

Mr. Rapport was not able to say much about the various program areas within ETA. He referred us to Grace Kilbane for unemployment insurance issues; Jerry Fiella and Ray Uhalde for wage record issues, the famously ineffective Out of School program (which was just received additional funding!), and the Job Corps; and Jim Ellman for the One-Stop Career Centers program. The latter program seeks to create a central job bank linking several sources into one.

INTERVIEW SUMMARY 7

RE: Anthony Swoope
Administrator
Bureau of Apprenticeship and Training
Employment and Training Administration (BAT)

DATE: December 17, 1997

PLACE: DOL, Room S-2320

PRESENT: Myron Zeitz, Solicitor's Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

When questioned about the Results Act process, Mr. Swoope described a team effort that included BAT's regional executives and Jack Rapport, who is the Employment and Training Administration's (ETA) Financial Manager and who coordinated the preparation of ETA's strategic plan. In August or September of 1997, Mr. Swoope also met with DOL's Deputy Budget Director Ed Jackson, who was responsible for Results Act compliance on a Departmental level. Though Mr. Swoope had little to say about the Results Act process, he did share the sentiment of many at the DOL that it was extremely difficult to apply outcome measurement analysis to his agency.

With regard to the activities of BAT, it was interesting to hear that BAT's enforcement efforts are almost entirely directed to its affirmative action regulations (29 C.F.R. Part 30) rather than its training regulations (29 C.F.R. Part 29). This is no doubt because each state has its own apprenticeship program, and BAT primarily serves a source of funds for those programs. In order for BAT to cancel funding to any given state program, BAT would have to decertify that state's entire program. Mr. Swoope has no memory of this ever happening. Like OFCCP, BAT's affirmative action regulations require the agency to ensure that the 32 thousand apprenticeship program sponsors that receive BAT funds provide opportunities to "target" numbers of women and minorities. Mr. Swoope is unaware of any effort at the DOL to develop affirmative action regulations that do not provide for group rights by race or gender. BAT will not conduct its own compliance review if OFCCP is already conducting its own. BAT uses EEO data and complaints to determine which sponsors will be subjected to compliance reviews.

INTERVIEW SUMMARY 8

RE: John R. Fraser
Acting Administrator
William M. Gross
Director of Office of Wage Determinations
Wage and Hour Division (WHD)
Employment Standards Administration (ESA)

DATE: December 17, 1997

PLACE: DOL, Room S-2320

PRESENT: Myron Zeitz, Solicitor's Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

When questioned about the Results Act process, Mr. Fraser began by discussing a quality management initiative that WHD began in 1990/91. Consultants from the Kodak Corp. assisted in this process, which he said introduced WHD to strategic planning

methods for measuring results. He also recalls attending an OASAM conference on managing for results in 1995 that was conducted by Bell Atlantic. The Results Act process began in the fall of 1996. ESA's plan was coordinated by Cecily Rayburn (who we have also interviewed), and Mr. Fraser remembers that implementation criteria came from both the DOL and the OMB. Ray Glass and Bill Matlock did most of the Wage and Hour Division's work on the plan. There were meetings with Congress and ESA stakeholders during the summer of 1997, and there was a meeting of the Council on Excellence in Government at which measurement problems were discussed. There were also ESA and departmental meetings to discuss stating of goals and the coherence of the plan. The departmental meetings were run by Deputy Secretary Kitty Higgins and DOL Comptroller Jim McMullen (Ed Jackson's boss). Carolyn Burstein of the Ivy Group was brought in to give assistance in presentation and defining terms.

INTERVIEW SUMMARY 9

RE: Interview of Joe N. Kennedy
Deputy Director
Office of Federal Contract Compliance Programs (OFCCP)

DATE: December 18, 1997

PLACE: DOL, Room S-2217

PRESENT: Myron Zeitz and Gary Buff, Solicitor's Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

When questioned about the GPRA process, Mr. Kennedy, like many witnesses, pointed to pre-GPRA efforts to manage for results, starting when he was at HHS in 1990. He also mentioned an OFCCP management conference in Georgetown. As for GPRA itself, Mr. Kennedy worked on it, together with OFCCP planning staffers Randy Lowe and Joyce Dorry, and policy staffer James Melvin. He does recall that Carolyn Burstein of the Ivy Group met with OFCCP to help them express their results in terms of outcomes rather than outputs. While others DOL staffers have been careful to deny that Ms. Burstein and her associates actually wrote anything, Mr. Kennedy indicated that she actually rewrote some of OFCCP's plan outcomes (a seeming violation of GPRA's requirement that the plans be written by federal employees). He also said that OFCCP does maintain liaison with its stakeholders in the federal contracting industry. Though OFCCP did not share the plan itself with these stakeholders, it did review the plan's ideas at briefings around the country and no written comments were received. Mr. Kennedy feels that defining outcome measures was the hardest part of writing the GPRA plan, and does not believe that existing laws present any impediments to the process.

INTERVIEW SUMMARY 10

RE: Susan J. Adams
Quality Management Manager of Programs
Bureau of Labor Statistics (BLS)

DATE: December 18, 1997

PLACE: DOL, Room S-2217

PRESENT: Myron Zeitz, Solicitor's Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

When questioned about the GPRA process, Ms. Adams, like many recent witnesses, first pointed to pre-GPRA efforts to manage for results. BLS began when its Quality Management system was introduced in 1991. As for GPRA itself, Ms. Adams recalls that the BLS Quality Council actually started working on the plan in 1995. She received a GPRA start-up phone call from Patricia Vastano, of DOL's Office of Budget, sometime in 1996 and remembers that a first draft of the report was due that October. Ms. Adams worked mostly with Cathy Kazanowski to coordinate preparation of the report with the various program offices within BLS. They formatted the first version using the OMB A-102 document, and later used guidance from DOL itself. BLS did meet with congressional staff during the process, though Ms. Adams was not present. BLS circulated its plan to numerous professional groups, advisory committees and other stakeholders, and Ms. Adams does not recall receiving written comments. She also remembers meeting with Carolyn Burstein of the Ivy Group, who helped with the difficult task of identifying outcome measures and measurement criteria.

INTERVIEW SUMMARY 11

RE: Sylvia Horowitz
Inspector General
Joseph McGowan
Director of Communications
Nancy Ruiz-de-Gamboa
Program Analyst
Office of the Inspector General (OIG)

DATE: January 8, 1997

PLACE: DOL, Room S-5022

PRESENT: Myron Zeitz, Solicitor's Office

Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

The attached time line summarizes the OIG's results act process. Mr. McGowan remembers speaking to both OSHA and ETA about their Results Act pilots in 1994. The OIG also brought "facilitators" from Coopers and Lybrand to their manager's conference in May of 1995 to conceptualize the elements of their strategic plan. OIG began work on the Results Act itself in October of 1996. Since they are an investigative agency, they consulted with other IGs and the DOJ on how best to express their activities in terms of measurable outcomes. OIG brought two professors from Central Michigan University to their manager's conference in January of 1997 who were experts in strategic planning for law enforcement agencies. Using the GAO checklist, they provided both written and oral comments on OIG's draft. Since Congress, as the public's representative, is OIG's only "stakeholder," OIG was careful to consider the labor issues that Congress seems most concerned about. All three agreed that compliance with the Results Act would have been much easier if OMB or Congress had provided the agencies with an umbrella format.

INTERVIEW SUMMARY 12

RE: Paula White
Director of Federal State Operations
Occupational Safety and Health Administration (OSHA)

DATE: January 8, 1998

PLACE: DOL, Room S-2217

PRESENT: Myron Zeitz, Solicitor's Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

Unlike some DOL witnesses, Ms. White did not exaggerate OSHA's pre-Results Act efforts at strategic planning. She remembers that former Assistant Secretary Dear volunteered OSHA's participation in a Results Act pilot project. The pilot was headed up by Steve Newell, and concentrated on OSHA's reporting and measurement requirements. Though she had no involvement in the pilot, she knows that OMB and GAO were.

OSHA began working on its Results Act report in February of 1997. Ms. White was named co-chair of the strategic planning group along with David Zeigler, who is OSHA's Director of Administrative Programs. The group (approx. 18) included 2 Regional Administrators as well as representatives from all of OSHA's component offices in Washington. The group met on a weekly basis from February through September 1997. Michael Kirsh of the Technical Assistance and Training Corporation was hired to

facilitate these meetings. Ms. White denied, however, that he acted as a "consultant" as such, and stated that he provided no written materials to assist in the report. There was written guidance from the DOL and the OMB, however.

Ms. White recalls that a first draft was ready in late March. The draft was circulated for comment to industry and labor groups, as well as to the state plans and federal agencies such as NIOSH and the Small Business Administration. A stakeholder meeting was held in June or July. The draft was also given to Congress, and there were meetings with House and Senate Appropriations and Oversight staff. There was a departmental meeting chaired by Kitty Higgins in August that Ms. White did not attend. She believes that Gregory Watchman did attend this meeting (which is where the DOL may well have violated the Results Act by having Ivy Group providing too much assistance in writing the plans). OSHA's final report was submitted at the end of September. The strategic planning group is still together, and is developing crosscutting strategies for Assistant Secretary Jeffords.

When asked, Ms. White said that the Results Act has been especially difficult for OSHA in that it asks the agency to measure its performance based on numbers that haven't been kept. The agency will have to spend the first year or two just establishing the baselines. Plus the BLS data they use is always 18 months out of date, and even their own data is 6 to 8 months out of date. It has also been very difficult for OSHA to change from output thinking to measuring its performance by the rate of reduction of occupational illnesses and injuries.

INTERVIEW SUMMARY 13

RE: Hary Puente-Duany
Director
Office of Information, Management and Budget
Veterans' Employment and Training Service (VETS)

DATE: January 16, 1998

PLACE: DOL, Room S-1310

PRESENT: Myron Zeitz and Eileen McCarthy, Solicitor's Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

Mr. Puente-Duany first learned of the Results Act in 1993 or 1994 when the legislation was first passed. In 1994, there were meetings at VETS at which strategic planning concepts and "quality management" were discussed. Mr. Puente-Duany explained that then Assistant Secretary Preston Taylor had been a strategic planning specialist at the Defense Department. However, VETS did not prepare any type of written strategic plan at that time, presumably because Mr. Taylor preferred oral to

written communications. In any event, VETS began the Results Act process following an agency meeting on the subject in October 1996. In early 1997, VETS held a meeting in Georgetown that included regional administrators and Washington headquarters staff. The Results Act and the FY-98 budget were discussed together, and the agency began to develop both performance measures and mission and vision statements. Though VETS is an entirely separate agency, Jeff Crandall from VETS was on the ETA Results Act Committee that was coordinated by Jack Rapport (who we have also interviewed). He knows that the One Stop Career Center project received much attention during ETA's Results Act process.

A draft of VETS plan was ready by April. Mr. Puente-Duany denied that any major rewrites were necessary, though he did acknowledge that goals regarding disabled veterans were added following stakeholder comment. There were meetings with Ed Jackson and Pat Vastano of OASAM's budget office, the Veteran's Affairs Committee in the House, and various Defense Department stakeholders. As for the Results Act itself, Mr. Puente-Duany had no criticism of the act or the process of compliance. He did say, though, that it would be good for VETS to develop a better relationship with this Committee. Most of VETS Hill contacts have been with Veterans' Affairs Committee.

INTERVIEW SUMMARY 14

RE: Richard L. Brechbiel
Deputy Administrator for Coal Mine Safety and Health
Mine Safety and Health Administration (MSHA)

DATE: January 23, 1998

PLACE: DOL, Room S-2206

PRESENT: Myron Zeitz and Eileen McCarthy, Solicitor's Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

Regarding the Results Act process, Mr. Brechbiel remembers a 1995 DOL retreat to discuss the Results Act, which was held at Howard University. Though this retreat was attended by DOL's assistant secretaries and department heads, Mr. Brechbiel was the only witness to mention it. Based on departmental guidance, Mr. Brechbiel began to coordinate MSHA's strategic plan with all of MSHA's program heads in early 1997. Mr. Brechbiel and his staff attended 4 or 5 departmental meetings, and his staff attended Results Act seminars with Mr. Jackson and other departmental budget officials. A first draft of MSHA's plan was ready by March, and Mr. Brechbiel remembers that it went through 3 or 4 rewrites before it was finished. MSHA did not schedule any stakeholders' meetings as such, but did discuss the development of its strategic plan at various conferences attended by industry and labor.

Mr. Brechbiel and MSHA's Assistant Secretary met with congressional staff sometime late in the process. It is interesting that MSHA had its own contract with the Ivy Group. Mr. Brechbiel remembers that, starting in June, the Ivy Group to "facilitated" Results Act meetings at MSHA. There were approximately three such meetings, during which an Ivy Group representative named "Jim" educated MSHA on strategic planning and formatting of reports. He also reviewed and commented on MSHA's working draft. It is again worth mentioning that the Results Act itself states that the plans are to be written by federal employees, not private consultants. When asked to comment on MSHA's efforts to identify the "root causes" of accidents and injuries as stated in its Results Act strategic plan, Mr. Brechbiel explained that that is not his area of expertise. Regarding the entire Results Act process, Mr. Brechbiel acknowledged that it requires a major change in mindset from simply counting the number of inspections to measuring for results. Though difficult, he did not recommend any changes.

INTERVIEW SUMMARY 15

RE: Michael N. Griffin
Director
Division of Planning and Internal Control
Office of Financial Integrity
Office of the Chief Financial Officer (OCFO)

DATE: January 26, 1998

PLACE: DOL, Room S-2217

PRESENT: Myron Zeitz and Eileen McCarthy, Solicitor's Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer, Subcommittee on
Oversight and Investigations

Mr. Griffin remembers that the Results Act was discussed extensively at meetings of the CFO's Council when it was first enacted. At that time, the Chief Financial Officer (CFO) was Edmundo Gonzales, though Kenneth Bresnahan is now the acting CFO. Mr. Griffin's agency began working on its own strategic plan when a departmental memo was circulated. He recalls that OMB guidance was also circulated at about that time. Mr. Griffin coordinated the effort, though it was an agency-wide process that included agency directors Norman Perkins, Brenda Kyle and James Brown. He agency also worked closely with OASAM's Office of Budget, including Deputy Director Ed Jackson (who we have also interviewed). In fact, an OCFO accountant, Blair Staley, was detailed specifically to coordinate the strategic plan with OASAM and to attend departmental meetings.

The first draft of OCFO's strategic plan was ready in March. He is not sure if a draft was made available to Congress or whether agency personnel met with congressional staff. As for stakeholders meetings, Mr. Griffin explained that OCFO's

stakeholders are the CFO's of the other DOL agencies. Therefore, stakeholders meetings came in the form of discussions with the CFO's advisory counsel at DOL. Mr. Griffin remembers that the Ivy Group reviewed their draft plan during the summer. They provided both advice and written comments and suggestions, another indication of an agency that perhaps received a level of help from this consultant that is disallowed by Results Act. Mr. Griffin did not attend the departmental meetings in early August, though he thinks acting CFO Kenneth Bresnahan did. The final plan was submitted in September, though the performance plan continues as part of the FY-99 budget process. Mr. Griffin explained that it was very difficult to conceptualize outcomes for his agency, which supplies administrative support services. Therefore, the goals and outcomes in OCFO's plan stated in terms the requirements placed on his agency by the Chief Financial Officer's Act. He would also caution Congress to consider the paperwork burdens that legislation such as the Results Act can cause.

INTERVIEW SUMMARY 16

RE: Robert Shepard
Office of Foreign Relations
Gabriela Araujo
Special Assistant to Deputy Under Secretary Samet
Bureau of International Labor Affairs (ILAB)

DATE: February 5, 1998

PLACE: DOL, Room S-2217

PRESENT: Myron Zeitz and Eileen McCarthy, Solicitor's Office
Bill Buie, Office of Congressional Affairs
Bill Matchneer and Steve Settle, Subcommittee on
Oversight and Investigations

Before coming to ILAB, Mr. Shepard had prepared a strategic plan for the International Relations program at Colgate University. He first learned of the Results Act in June of 1997, at which time he was assigned the responsibility for writing ILAB's report. He interviewed colleagues in the other ILAB offices (International Economic Affairs, International Organizations and Management, Administration and Planning) and prepared ILAB's report from the notes he took. Using the Coast Guard's preliminary report as a guide, he had a draft ready by July or August. Unlike most agencies, however, ILAB had no Results Act meetings with Congress and solicited no input from its stakeholders. Mr. Shepard recognized that the Results Act calls for a business plan, which he described as a "new thing" for his agency. Since the agency will now be judged on the quality of its results rather than the quantity of its activities, baselines from which to make the necessary measurements must be established. Though the establishment of baselines continues to be topic at ILAB staff meetings, there is still no agreement on which baselines to use.

In its Results Act plan, ILAB includes a goal to “increase the global implementation of core international labor standards.” Mr. Shepard indicated that these are contained in various ILO conventions, only one of which has been ratified by the U.S. In his agency’s defense, he stated that U.S. standards already surpass those of the ILO. He also believes that the President’s Tripartite Advisory Panel on International Labor Standards (TAPILS) will present the remaining conventions to Congress for ratification during this term. When South Korea applied for membership in the Organization for Economic Cooperation and Development (OECD) in 1994, the ILO found that there were 9 systemic conditions in South Korea that required correction. At the State Department’s request, ILAB helped South Korea to meet these requirements. Mr. Shepard traveled to South Korea as part of this effort.